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CALIFORNIA. LAWS, STATUTES, ETC.

AN ACT TO REGULATE THE CONDUCT OF
CANNERIES

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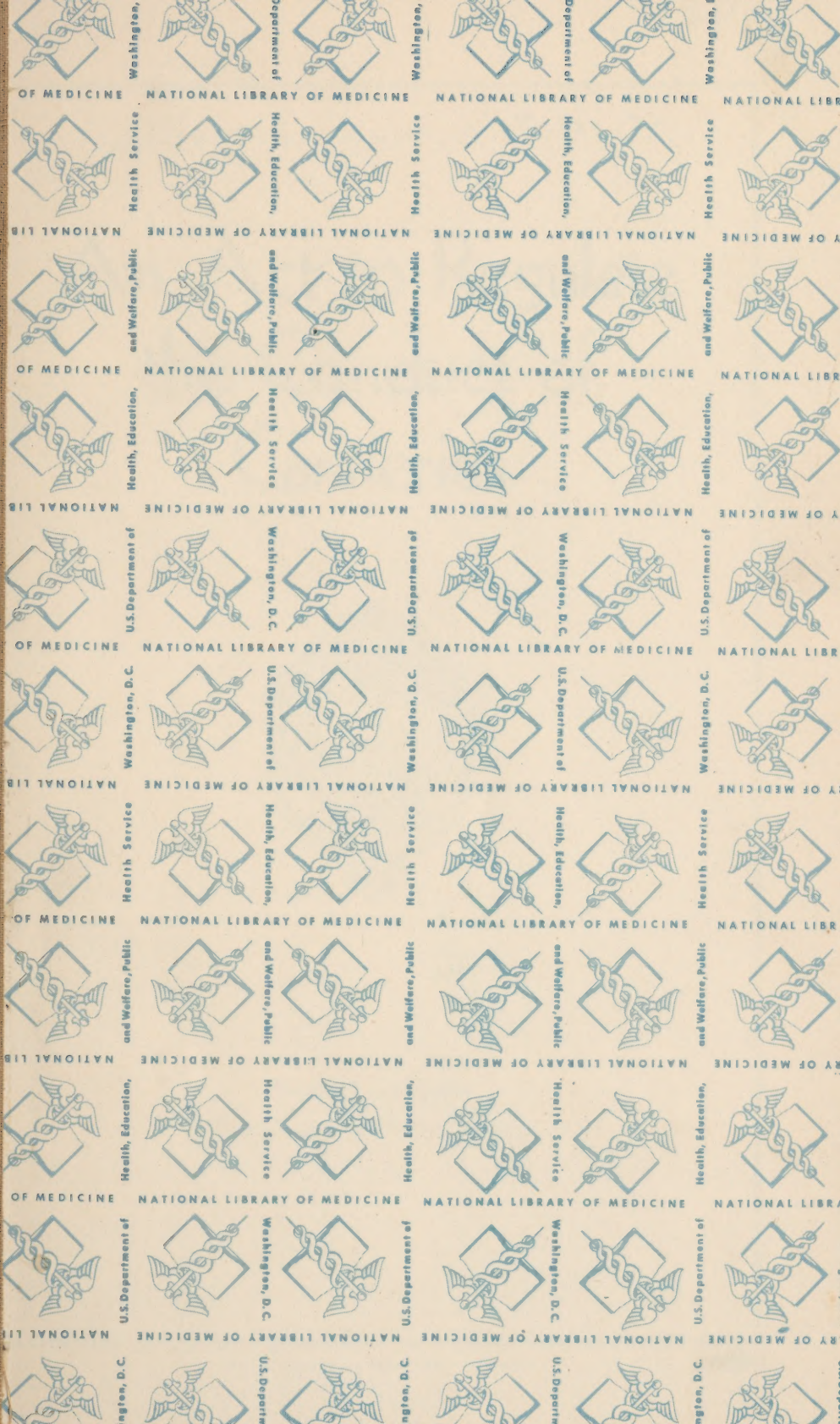
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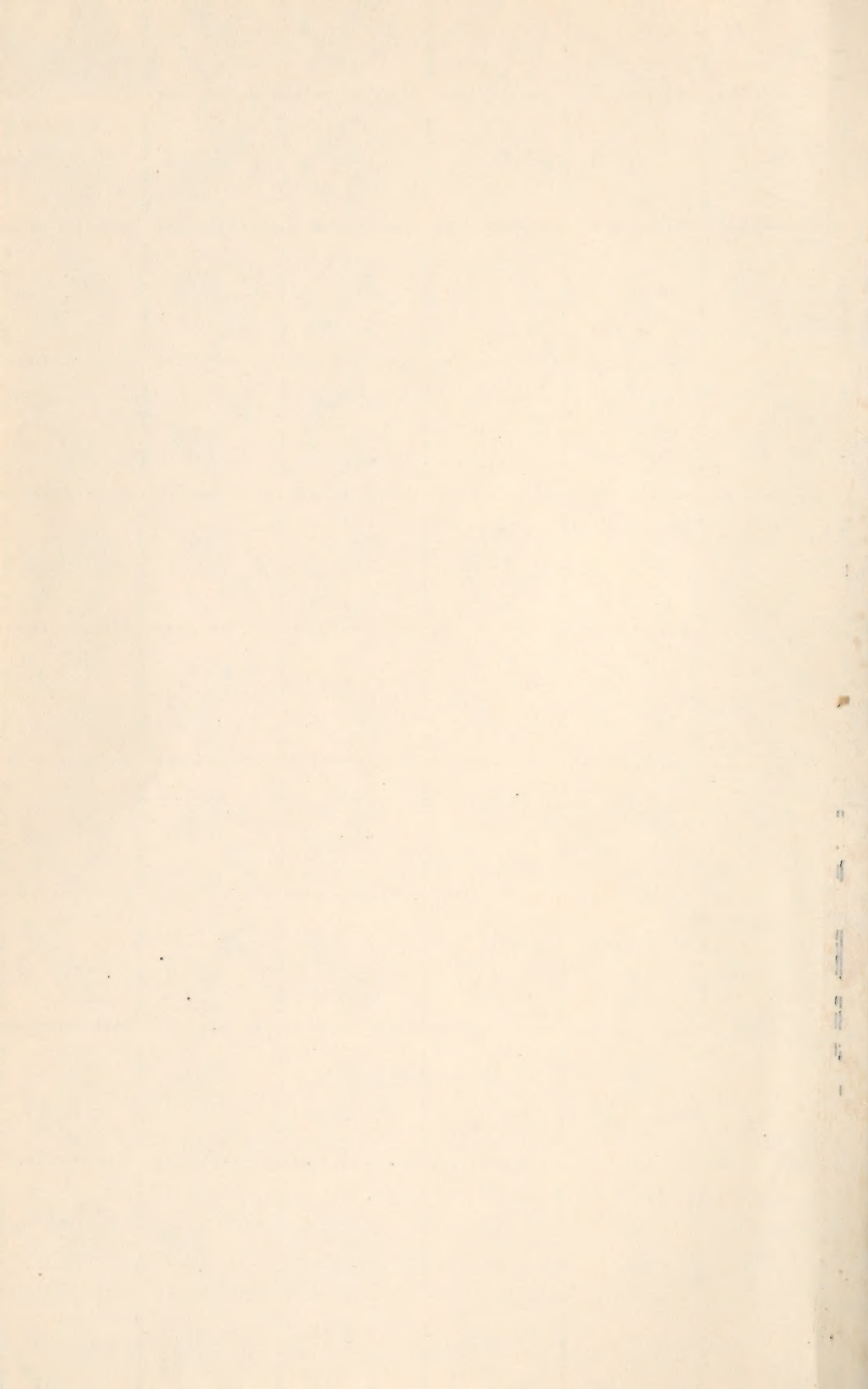


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An Act to Regulate the Conduct of Canneries



State of California
Department of Public Health

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AN ACT TO REGULATE THE CONDUCT OF CANNERIES

Chapter 428, Statutes 1925. Approved May 23, 1925

AMENDED

Chapter 730 Statutes 1927

Chapter 884 Statutes 1933

Chapter 659 Statutes 1935

Chapter 1117 Statutes 1939

Chapter 1043 Statutes 1941

Chapter 1209 Statutes 1945

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AN ACT TO REGULATE THE CONDUCT OF CANNERIES

An act to regulate the conduct of canneries, to create a Division of Cannery Inspection to carry on such regulations, to provide rules regulating the proper sanitation of canneries, under the State Board of Health.

(Approved by the Governor May 23, 1925. Amended 1927. Amended 1933. Amended 1935. Amended 1939. Amended 1941. Amended 1945.)

The people of the State of California do enact as follows:

Pressure Cooker Licenses Required

SECTION 1. It shall be unlawful for any person, firm, company, organization, association or corporation in the State of California, to engage in the noncommercial canning of salmon or in the commercial canning of any food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, for the use of man or animal, the sterilization of which in the opinion of the California State Board of Health requires the use of a pressure cooker, or a retort, without first obtaining a license from the said State Board of Health, provided, however, that the Division of Cannery Inspection as hereinafter created shall have supervision over the inspection and examination of raw fish and fish products preparatory to canning, the cost of said inspection and examination to be determined and paid in like manner as provided in Section 4 of this act for products otherwise falling within its provisions. Food products which do not require the use of a pressure cooker but necessitate acidulation and pH determinations come within the provisions of this chapter.

Fees to be Collected and Disposition Thereof

SEC. 2. The said State Board of Public Health shall issue to any person, firm, company, organization, association or corporation in the State of California, an annual license on the receipt of fifty dollars (\$50) per annum, per plant, and such evidence as the board may require to show that the said person, firm, company, organization, association or corporation is properly equipped with a retort or retorts or pressure cooker which are properly equipped with recording thermometers, indicating thermometers and pressure gauges to carry out such rules and regulations as the State Department of Public Health may adopt for the sterilization of such food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Meat Inspection Division, Livestock and Meat Branch of the Office of Marketing Services, War Food Administration, or approved municipal inspection departments or establishments. All moneys received by the State Board of Public Health for fees shall be deposited at

least once each month in the State treasury to the credit of the Cannery Inspection Fund, which fund is hereby created to be used, exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the State Board of Public Health and the State Board of Control in the manner provided for by law. One thousand dollars (\$1,000) of the Cannery Inspection Fund may be used as a revolving fund for the purpose of carrying out the provisions of this act.

No person, firm, company, organization, association or corporation in the State of California shall permit any person, employee, or individual to operate a steam controlled retort or retorts used in the commercial canning industry for the sterilization of food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Meat Inspection Division, Livestock and Meat Branch of the Office of Marketing Services, War Food Administration, or approved municipal inspection departments or establishments, unless said person, employee or individual shall first obtain a permit from the State Board of Public Health which shall have power to pass upon and determine the qualifications of the applicant for the permit with a view to the preservation of the public health, and which permit when granted shall be revocable by the board whenever in its judgment the public health requires such action.

Noncommercial Canning Centers

SEC. 2-A. The operation of noncommercial canning centers by community canning centers, schools, churches, housewives, or other organizations packing hermetically sealed canned food products for their own consumption and where the canned food is not to be sold for profit, is exempt from the licensing provisions of this chapter and in lieu thereof a permit to operate such canning centers shall be issued, without cost, by said State Board of Public Health upon the submission of such evidence as the board requires to show that the said persons operating said canning centers are qualified and that said canning centers are properly equipped and meet all other provisions of this chapter.

Inspectors and Other Employees

SEC. 3. The California State Board of Public Health is hereby empowered to make such rules and regulations which it may within its discretion deem necessary for the proper enforcement of the provisions of this act. Such rules and regulations shall have the force and effect of law; provided, however, that such rules and regulations and any amendment thereto shall be submitted to the Cannery Inspection Board at least five days prior to the adoption thereof by the State Board of Public Health. For the purpose of enforcing the rules and regulations of the State Board of Public Health and the provisions of the Pure Foods Act relating to the canning of such food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, the State Board of Public Health shall appoint a Chief of Bureau of Cannery Inspections, and such additional inspectors

and clerical assistants as it may deem necessary for the enforcement of its rules and regulations. It shall be the duty of the Board of Public Health so far as practicable to acquaint each licensee under the provisions of this title with the rules and regulations of such board, and upon request therefor by any such licensee the board shall furnish a copy of such rules and regulations.

Cannery Inspection Board. Cost of Inspection.

SEC. 4. There is hereby created the Cannery Inspection Board, to consist of six members. The six members shall be: The Director of the State Department of Health, who shall act as chairman, the Director of the Hooper Foundation for Medical Research, University of California, and four men experienced in, and with substantial investments in, and actively engaged in the canning industry at the time of their appointment, to be appointed by the State Board of Public Health. One of the said four appointive members shall be engaged in the canning of animal food. The said four appointed members shall hold office for a term of one year or until their successors are appointed. Members of said board shall serve without compensation. It shall be the duty of said board, subject to the approval of the State Board of Public Health, to:

(a) Estimate the cost of the separate inspections and laboratory control required to be made for each product, subject to the provisions of this act, prior to the opening of the canning season of each such product having a canning season of less than three consecutive months and prior to each quarter for each product having a canning season of more than three consecutive months;

(b) Estimate, for the purpose of prorating such estimated cost of inspection and laboratory control the number of cases to be packed or the number of tons to be packed, or the number of man hours necessary to be employed, whichever in its discretion is most equitable as a basis of proration;

(c) Determine, based on estimates (a) and (b), the probable cost of such inspection and laboratory control per thousand cases, or per ton, or per man hour, whichever in its discretion is most equitable;

(d) The cost of laboratory control and research on products subject to the provisions of this act shall be prorated by the Cannery Inspection Board in the same manner as the costs of inspection are prorated by it.

Pack to be Quarantined

SEC. 4-A. Any product packed in violation of this act may be quarantined by the State Board of Health until laboratory examinations have established that said product meets the requirements of this act. It shall be the duty of the person, firm, company, organization, association or corporation who packed any such product to pay to the State Board of Health all reasonable costs of said laboratory examinations, determined by the Cannery Inspection Board, subject to the approval of the State Board of Health, to be necessary to determine that such seized product is packed in violation of this act.

Cash Deposit Necessary

SEC. 5. In addition to the license fee required in section 2 of this act, the State Board of Public Health shall demand from each licensee hereunder a cash deposit, or such other security for the payment of said

pro rata share of the estimated cost as the said board may deem necessary. All moneys received by the State Board of Public Health under this section shall be deposited by it at least once each month in the State treasury to the credit of the cannery inspection fund. No food product subject to the inspection or examination provided in this act shall be shipped by the licensee packing the same until said licensee shall have paid its prorata share of the estimated cost of inspection of said product or shall have furnished to the State Board of Public Health a cash deposit or other security satisfactory to the State Board of Public Health for the payment of its prorata share of the cost of inspection.

Basis of Pro-rating Cost

SEC. 5-A. If the delegation of discretion to determine whether the case, ton, or man hour basis be most equitable as a basis of prorating the cost of inspection and laboratory control hereunder be held to be invalid as an unlawful delegation of legislative power, such invalidity shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that if it had known that the delegation of such discretion would be declared invalid as an unlawful delegation of legislative power, it would have designated the man hour basis of proration as the most equitable basis of proration. In the event of such invalidity, the cost of inspection and laboratory control hereunder shall be prorated on the man hour basis.

Estimate Cost of Inspections

SEC. 6. In making any of the separate inspections and laboratory control required to be made for each product, the State Board of Public Health shall not spend more than the amount estimated under Section 4 of this act as the cost of said inspection by the Cannery Inspection Board without the approval of said Cannery Inspection Board. At the end of each quarter or at the close of the canning season, where said canning season does not exceed three consecutive months, the State Board of Public Health shall determine the actual cost of inspection and laboratory control of each separate product for the preceding quarter or preceding canning season, and shall prorate such cost to each licensee on the basis of cases packed or tons packed, or number of man hours necessary to be employed, whichever has been determined by the Cannery Inspection Board, with the approval of the State Board of Public Health, to be most equitable under the provisions of Section 4 of this act.

Stand-by Services of Inspectors

SEC. 6-A. In making estimates, determinations, assessments, and prorations under Sections 4 and 6 of this act, the Cannery Inspection Board and the State Board of Public Health may include as a part of the cost of inspection a reasonable charge for stand-by services of inspectors.

Actual Cost of Inspection

SEC. 7. If the deposit as provided in Section 5 of this act, made by any licensee hereunder, be insufficient to meet the actual cost determined by the State Board of Public Health, as provided in Section 6 of this act, then in addition to the license fee required in Section 2 of this act, the State Board of Public Health shall demand from such licensee, and such licensee shall immediately pay to the State Board of Public Health, the

difference between such deposit and his pro rata of the actual cost of inspection and laboratory control.

Refund of Deposit

SEC. 8. If at the end of the calendar year, or at the end of any canning season where the season is less than three consecutive months, the deposit made by any licensee hereunder, as provided in section 5 of this act, is greater than the actual cost prorated to any licensee under the provisions of section 6 of this act, then the difference shall be refunded to such licensee in accordance with the provisions of the Political Code Section 453a.

Revocation of License

SEC. 9. The State Board of Public Health may after notice and opportunity for hearing for the following cause or causes suspend or revoke a license issued under this act:

(a) The nonpayment of said pro rata share of the cost, or failure to comply with a demand for a cash deposit or other security by the holder of such license.

(b) The noncompliance with any of the regulations of the State Board of Public Health.

(c) After conviction for violation of the California Pure Foods Act (Health and Safety Code) the license may be suspended for a period of from one to 30 days.

(d) The operation of an insanitary cannery after due notice by registered mail has been received.

(e) Inadequate rat-proofing of a cannery throughout.

(f) Wilful packing of any canned food commodity which has been rejected by a duly authorized agent of the State Department of Public Health.

(g) The packing of any canned food commodity under the supervision of this act without notifying the State Department of Public Health before packing same.

The proceedings shall be conducted in accordance with Chapter 5, of Part 1, of Division 3, of Title 2 of the Government Code; and the board shall have all the powers granted therein.

Statements on Containers

SEC. 10. It shall be unlawful for any person, firm, company, organization or association or corporation to place upon the label of any bottle, can, jar, carton, case, box or barrel, or any receptacle, vessel or container of whatever material or nature which may be used by a packer, manufacturer, producer, jobber or dealer for inclosing any such canned food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, any statement relative to the product having been inspected, unless such statement has been approved, officially in writing, by the State Board of Health. Said approval shall be revocable at any time at the discretion of the State Board of Health upon official written notice.

Penalty

SEC. 11. Any person, firm, company, organization, association or corporation, which does not obtain a license for the conduct of its plant or plants under the provisions of this act, or who operates after its license has been suspended or revoked, or which violates any provision of this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty five (25) dollars, or more than five hundred (500) dollars, or shall be imprisoned in the county jail for a term not exceeding six months.

Prosecutions

SEC. 12. It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute every person, firm, company, organization or corporation accused of such violation.

Effect of Act

SEC. 13. No act which is made unlawful by any provision of an act of the Legislature of the State of California, entitled "An act adding Division 21, comprising Chapter 3 and Sections 26450 to 26624, inclusive, to the Health and Safety Code, relating to adulterating, mislabeling, misbranding, false advertising, and sale of foods and the powers of the State Department of Public Health in relation thereto," or any amendment thereto, shall be deemed lawful by reason of any provision of this act.

Constitutionality

SEC. 14. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.





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